

VIRGINIA DEPARTMENT OF EDUCATION
Division of Special Education and Student Services
Office of Dispute Resolution & Administrative Services

**ANNUAL REPORT
OF THE
DISPUTE RESOLUTION SYSTEMS
AND
ADMINISTRATIVE SERVICES**

- Due Process Hearing System
- Mediation Services
- Complaints Resolution System
- Administrative Services

Reporting Period: July 1, 2009 – June 30, 2010

Reporting Date: September 1, 2010

This review serves to assist the Virginia Department of Education (VDOE) in:

- ensuring compliance with the federal and state mandates governing the dispute resolution systems;
- identifying future training activities, particularly for hearing officers and mediators;
- identifying and addressing systemic issues impacting local school divisions; and,
- assessing the strengths and challenges of each system.

This analysis serves as a reporting mechanism to VDOE's management team responsible for the development of VDOE's State Performance Plan to the U.S. Department of Education's Office of Special Education Programs and for other data collection reports. It also provides information on this office's systems to VDOE staff and consumer groups listed at the end of this report.

Questions regarding the content of this report may be directed to the Office of Dispute Resolution and Administrative Services at (804) 225-2013. Information regarding the office's services is available on the web at:

http://www.doe.virginia.gov/special_ed/resolving_disputes/due_process/index.shtml



PART I DUE PROCESS HEARING SYSTEM

- Baseline Data
- Hearing Officer Performance
 - ✓ Management of Hearings
 - ✓ Decisions
 - ✓ Managing the 45-Day Timeline
- Recertification of Hearing Officers
- Training of Hearing Officers
- Implementation Plans
- Follow-up System for Implementation Plans
- ODR/AS Initiatives

A. BASELINE DATA

☐ Number of Hearing Requests

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of requests	79	81	87
Number dismissed/withdrawn ¹	60	61	62
Number of decisions rendered after full hearing ²	12	9	16
Number pending as of 6-30 of relevant report year	7	11 ³	9 ⁴

¹Cases closed without a hearing due to a mediation, or settlement agreement, or request for withdrawal. The cases may also be closed if a hearing officer dismisses the case for other reasons, such as the expiration of the statute of limitations or the failure to present a sufficient due process notice, etc. In 2009-2010, there were nine (9) cases in which a Hearing Officer entered a dismissal order based on various other reasons. Most of the remaining cases were dismissed based on some form of an agreement between the parties.

²Redacted decisions are posted on the web at http://www.doe.virginia.gov/special_ed/resolving_disputes/due_process/index.shtml.

³The previously pending 11 cases were concluded during 2009-2010; five (5) were dismissed/withdrawn, and six (6) decisions were rendered after full hearing.

⁴The previously pending 9 cases were concluded during 2008-2009; six (6) were dismissed/withdrawn, and three (3) decisions were rendered after full hearing.

☐ **Number of Hearing Requests – 5-Year Period**

Year	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Total Requests	79	81	87	69	98

☐ **Number of Decisions**

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of Decisions	12	9	16
Initiating Party:			
Parent	12	7	12
LEA	0	2	4
Prevailing Party:			
Parent	1 ⁵	1	1
LEA	6	8	12
Split	5	0	3

☐ **Additional Case Information for 2008-2009 Cases**

During this reporting period, 6 decisions for cases initiated in 2008-2009 were issued.

Issues	Prevailing Party	
	LEA	Parent
Eligibility:		
✓ Child Find	1	0
✓ Evaluation	1	0
✓ Adverse Impact	1	0
IEP:		
✓ Implementation	1	0
✓ Services	2	0
✓ Parental Participation	1	0
FAPE	3	0

⁵The primary prevailing party in the case, for classification purposes, was the parent.

Issues	Prevailing Party	
	LEA	Parent
Procedural Safeguards:		
✓ Records Access	1	0
✓ IEE	6	0
Other:		
✓ LRE	1	0
✓ Transportation	1	0
✓ § 504	1	0

☐ *Issues/Sub-issues and Disposition for 2009-2010 Cases*

Issues / Sub-issues	2009-2010			
	# Issues	Prevailing Party		
		LEA	Parent	Split
Total case issues	38	30	8	0
IEP	17			
Placement	9	8	1	0
Services	4	4	0	0
Development	2	0	2	0
Parental Participation	2	2	0	0
Due Process	5			
Procedural violations	1	1	0	0
Tuition reimbursement	4	4	0	0
Discipline	4			
Manifestation review procedure	1	0	1	0
Direct relationship	1	1	0	0
Implementation of IEP	0	0	0	0
Placement after Discipline	1	0	1	0
Necessity of FBA	1	0	1	0
Eligibility	3			

Issues / Sub-issues	2009-2010			
	# Issues	Prevailing Party		
		LEA	Parent	Split
Eligibility for Services	2	2	0	0
Evaluation	1	1	0	0
Other	9			
ESY	2	2	0	0
LRE	1	1	0	0
Transportation	3	2	1	0
Compensatory Education	2	1	1	0
§ 504	1	1	0	0

☐ *Issues and Disposition – Three-Year Period*

Issue	2009-2010			2008-2009			2007-2008		
	Total	LEA	P	Total	LEA	P	Total	LEA	P
IEP	17	14	3	12	12	0	18	15	3
Due Process	5	5	0	4	4	0	7	6 ⁶	1
Discipline	4	1	3	5	5	0	8	6	2
Eligibility	3	3	0	2	2	0	2	2	0
Other	9	7	2	2	1	1	4	3	1
Totals	38	30	8	25	24	1	39	32	7

☐ *Hearing Officers and School Divisions with hearing requests*

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of Hearing Officers	26 ⁸	26	27
✓ assigned to hearings ⁷	21	22 ⁹	23

⁶The split issue was added to the LEA total as the issue resolution was more beneficial to the LEA in that decision.

⁷Three members of the Special Education Hearing Officer List are excluded from being assigned due process cases during the reporting period based on certain alternative responsibilities. They serve as complaint appeal reviewers

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
✓ assigned more than once	20	21	20
Number of school divisions involved in hearing requests	35 ¹⁰	35	35

☐ **Resolution Sessions**

- The IDEA '04 imposed an additional requirement that upon receipt of the request for due process, the school division is required to schedule a Resolution Session with the parent. This provides both parties with the opportunity to resolve the issue. The Resolution Session is not the same option as mediation. If both parties agree to substitute mediation for the resolution session, the 30-day resolution period applies but a resolution session is not held. If both parties waive resolution, the due process request moves forward in accordance with the required timelines.

Resolution Sessions				
Reporting Year	Number of Cases	Resolution Sessions Held ¹¹	Agreement Reached	Waived For Mediation
2005-2006	97	59	16	6
2006-2007	69	39	17	12
2007-2008	87 ¹²	53	16	13
2008-2009	81 ¹³	46	17	9
2009-2010	79 ¹⁴	50	19	10

and hearing officer evaluators. They are required to complete the same training requirements as the other hearing officers; however, while serving as a complaint appeal reviewer or hearing officer evaluator, they are not appointed to due process hearing cases. There is one former Special Education Hearing Officer that serves as a Hearing Officer Evaluator in addition to the 26 active Hearing Officers.

⁸One Hearing Officer passed away during the current reporting period; and his name has been removed from the list. This officer is included in the total (26) reported.

⁹One additional hearing officer received a request to be assigned to a case but declined the appointment.

¹⁰The Virginia Department of Education was a party in two cases during the current year, and is included in the reported total of 35.

¹¹Cases in which sessions were not held involved a written waiver of the session, substitution of mediation for the resolution session, or resolution of the case prior to the scheduled resolution meeting.

¹²In three (3) pending cases, there was not sufficient time for a resolution session to be held during the pertinent reporting period. In four (4) cases, the hearing officer dismissed the case prior to a resolution session. In seven (7) cases, the parent withdrew the request prior to the meeting. In three (3) cases, a settlement agreement was reached before the meeting. In four (4) cases, the LEA initiated the due process hearing.

¹³In three (3) cases, the hearing officer found the notice was insufficient and dismissed the cases. In 17 cases, the parent withdrew the request prior to the meeting. In five (5) cases, the LEA initiated the due process hearing. In 10 cases, the resolution session was waived in favor of a mediation session.

¹⁴In five (5) cases, the hearing officer found the notice was insufficient and dismissed the cases before the resolution session. In three (3) cases the Hearing Officer dismissed the cases for other legal reasons prior to the resolution

□ *Trends*

- The number of requests for due process hearings (79) decreased by 2 from last year's reporting period (81). This total falls slightly below the 5-year average (414 total cases, averaging 82.8 cases per year). In the previous reporting period, the 81 total requests fell below the then-5-year average (442 total cases, averaging 88.4 cases per year) by approximately 7 cases.¹⁵
 - No single factor can be identified as contributing to the total number of due process requests, although effective mediation and school division efforts in early dispute resolution may have contributed to this total.
- A total of 35 school divisions (the Virginia Department of Education is included in this total, as noted above) were involved in hearing requests, matching the number for the prior two reporting periods (35). No particular school division or region experienced an influx of cases in this reporting period.
- Consistent with total year data for 2007-2008 and 2008-2009, data from this current reporting period identified three repetitive themes:¹⁶
 - ✓ Parents are the more frequent initiating party.
 - ✓ LEAs are more often the prevailing party.
 - ✓ Issues focus primarily on IEP concerns.
- The number of hearing decisions (12), reflected a 33% increase over the previous year (9 in 2008-2009), but was only 75% of the total reported in 2007-2008 (16).
- The number of case issues (38) addressed in this reporting period surpassed the number of case issues (25) reported in 2008-2009 by about 50%, but nearly matched the number (39) reported in 2007-2008.
- Similar to figures for the past two reporting periods, IEP issues again comprised the greatest portion of case issues (17 of 38 in 2009-2010 or about 45%, compared to 12 of 25, or about 48% of case issues in 2008-2009, and 18 of 39, or 46%, in 2007-2008.
- The number of hearing officers remained unchanged from the previous reporting period (26) and is one less than the 27 serving in 2007-2008.

session. In 11 cases, the parent withdrew the request prior to the meeting. In 10 cases, the resolution session was waived in favor of a mediation session.

¹⁵See Annual Report for Special Education, Office of Dispute Resolution and Administrative Services 2007-2008; Annual Report for Special Education, Office of Dispute Resolution and Administrative Services (2007-2008) (107 requests in 2004-05; 98 in 2005-2006; 69 in 2006-2007).

¹⁶See Annual Reports for Special Education, Office of Dispute Resolution and Administrative Services 2007-2008 and 2008-2009.

- Even though the number of hearing officers has significantly decreased since 2001-02, a smaller cadre of hearing officers would increase the potential for their hearing more fully adjudicated cases, and thus, improve their ability and skills to manage hearings more effectively, enhance the quality of their decisions, and be even more grounded in the highly complex area of special education law.
- This reduction in the number of hearing officers and their increased experience at the pre-hearing level are positive outcomes of the increased training requirements required by IDEA 2004 and the implementing regulations effective in October 2006 (34 C.F.R. § 300.511(1) (ii), (iii), (iv)). Hearing officers are receiving more assignments. Reviewing matters more frequently—even if only at the pre-hearing level, hearing officers further enhance those skills addressed in training.

B. HEARING OFFICER PERFORMANCE – MANAGEMENT OF THE HEARING

☐ ***Consumer Evaluations***

Evaluations are sent to both parties following the issuance of each decision in fully adjudicated cases.

The director of the Office of Dispute Resolution and Administrative Services (ODR/AS) reviews each evaluation response. The coordinator of due process services checks any concerns against the case record and may call the party(ies) for clarification. The director or coordinator contacts the hearing officer to review issues of concern and as necessary, issues a written cautionary notice to the hearing officer regarding any identified concerns. Additionally, as necessary, the director or coordinator may meet with the hearing officer to review the application of the regulations.

	Reporting Periods			
	2009-2010	2008-2009	2007-2008	2006-2007 ¹⁷
Number of evaluations sent	53	39	66	45
Number of responses	11	15	13	14

☐ ***Trends***

- The number of consumer evaluations sent (53) increased this reporting period by 14 (39 in 2008-2009), but did not match the 66 sent in 2007-2008. There does not appear to be an identifiable pattern regarding these shifts.

¹⁷The reported numbers are not related to the number of hearing requests for the reporting period. Rather, they relate to the decisions received by ODR/AS for the reporting period, which includes those cases carried over from the previous reporting period.

- The responses indicated that the hearing officers remain strongly consistent in the areas of:
 - ✓ Scheduling agreeable dates, times, and locations;
 - ✓ Maintaining a fair and impartial atmosphere;
 - ✓ Being knowledgeable of the requirements of both federal and state laws and regulations; and
 - ✓ Making prompt contact with both the parent and the LEA.
 - ✓ Informing the parties of the availability of mediation;
 - ✓ Issuing the decision in the required timelines; and
 - ✓ Helping ensure that witnesses needed for the hearing were present.
- Areas of concern are raised with the individual hearing officer and as necessary, notice is sent to the individual regarding any need for improvement or conditional recertification status.

☐ ***Evaluation of the Hearing Officers***

On April 1, 2006, ODR/AS established a system for VDOE evaluating each hearing officer's management of pre-hearing conferences and hearings. VDOE developed and disseminated to its hearing officers operational procedures for this system; evaluation forms; and trained 3 of the hearing officers to serve in the role of evaluator. They are required to complete the same training requirements as the other hearing officers; however, while serving as an evaluator, they are not appointed to due process hearings. The evaluators have been assigned to all pending cases and have provided evaluations in all cases where they attended hearings, either in person or telephonically. The evaluations have been positive and have promoted the overall quality of the hearing process. When areas of concern are identified by the evaluator, the concerns are reviewed with the hearing officer. The ODR/AS director and coordinator of due process services review all evaluations and follow up, as necessary, with the respective hearing officer.

C. HEARING OFFICER PERFORMANCE - DECISION

ODR/AS' director and coordinator of due process services review each hearing officer's decision.¹⁸ Additionally, the coordinator reviews and monitors all pre-hearing reports, orders,

¹⁸Redacted decisions are available at http://www.doe.virginia.gov/special_ed/resolving_disputes/due_process/index.shtml

and correspondences. Either the director or coordinator contacts the hearing officers if errors are identified relative to:

- apparent bias to either party
- correct use of citations
- readability
- correct appeal information
- other errors, such as incorrect names or conflicting data.

ODR/AS may not review the decision for errors of law since that is reserved for appellate review. As necessary, the director or coordinator contacts the hearing officer with any concerns and, in certain instances, requires the hearing officer to issue an error correction or a statement of clarification. These procedures are consistent with VDOE's management responsibilities for the due process system (8 VAC 20-81-210).

☐ ***Trends***

- Decisions and pre-hearing reports continue to be consistent in:
 - writing in a manner both the LEA and parents can understand;
 - advising both parties of the option of mediation;
 - clearly identifying what was being ordered as a result of the decision; and
 - including references to statutes or regulations that support the conclusions reached by the hearing officer.
- Fewer hearing officers erred this reporting period relative to:
 - advising the parties of their appeal rights; or
 - documenting that extensions of timelines were in the best interests of the child.

D. HEARING OFFICER – TRAINING

In addition to the training requirements of the Virginia Supreme Court, the VDOE is responsible for training hearing officers on the legal aspects of special education (laws, regulations, and case law updates) and management of special education hearings. For the 2009-2010 school year, hearing officers attended a two-day training event on May 13-14, 2010, which focused on:

- IDEA 2004 and IDEA 2006 Regulations
- Virginia 2009 Special Education Regulations

- Case law update.
- IDEA 2004 and 2006 regulatory requirements for hearing officers with special attention to Evaluation and Eligibility Issues; Individualized Education Programs and Free Appropriate Public Education issues; Various Procedural issues; Substantive issues; Related Services; Least Restrictive Environment; Unilateral Placements; Due Process Hearing Complaint Requests; Jurisdiction and Party Status; Stay Put; Burden of Proof; Statute of Limitations; Hearing Officer Authority; Hearing Officer Competency and Impartiality; Handling Mediation and Settlement Agreements; Credibility Decisions; Evidentiary Issues; and Miscellaneous Hearing Issues.
- Practical training on utilizing specific case strategies to improve hearing management.
- Specific practical suggestions to assist Hearing Officers to improve their image of neutrality in the course of hearings.
- Effective strategies for considering witnesses and exhibits in special education hearings.
- Steps to focusing issues in complex hearings.
- Section 504 of the Rehabilitation Act of 1973 and its relationship to IDEA.

In February of 2010, the VDOE provided the hearing officers with a writing seminar focusing on preparing special education decisions. The program was directed at providing enhanced skills to enable the hearing officers to prepare more understandable and clearly drafted decisions.

In July of 2005, many of the changes mandated by IDEA 2004 became effective. In October of 2006, the implementing federal regulations became effective. During the past five years, hearing officers have been provided specific training and technical assistance for implementing these statutory and regulatory provisions. In the current reporting period, the Virginia Special Education Regulations have been revised. Specific training was offered to the hearing officers to assist in applying these revised regulations in appropriate cases. The resolution period process continues to be a challenge to hearing officers' efforts to manage the timeline for the hearing process. In addition, hearing officers have received a greater number of pre-hearing motions covering a variety of pre-hearing issues. In a related development, there were a significant number of sufficiency challenges alleging due process notices did not meet the specific statutory requirements. These various motions have required additional pre-hearing conferences among the parties in order to provide greater focus in the due process hearings held. The year has included ongoing training in order to continue to facilitate application by hearing officers of statutory and regulatory changes in a variety of contexts.

Supplemental training activities this year have included, among other things:

- the use of the Parents' Guide to Special Education Dispute Resolution;
- availability of an updated *Parents' Guide to Special Education*;
- the implementation of the revision of Virginia's special education regulations; and
- ODR/AS summaries and texts of Virginia and Fourth Circuit Court and U.S. Supreme Court decisions relative to special education cases for the 2009-2010 year.

E. MANAGING THE 45-DAY MANDATED TIMELINE

Hearing officers are mandated to issue their decisions within 45 calendar days after the local school division receives the request for the hearing. The hearing officer may grant an extension only when it serves the best interest of the child (8 VAC 20-81-210.P.9 of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*).

VDOE identified the 45-day timeline as one of its target areas in its Continuous Improvement Monitoring Process Reports to U.S. Department of Education's Office of Special Education Programs (OSEP) (2002 and 2003); Annual Performance Report, 2004; and now the State Performance Plan (Indicator 17). VDOE developed and implemented a process that includes intensive monitoring and tracking of these timelines, training hearing officers on this subject, and issuance of notices to hearing officers who fail to document extensions. VDOE also assured Virginia's Code Commission that these efforts would address the concerns raised during the public hearings of the Administrative Law Advisory Committee (VDOE Report to the Code Commission and ALAC, November 1, 2002).

☐ ***45-day timeline extensions with proper notice***

	2009-2010	2008-2009	2007-2008
Total number of due process requests	79	81	87
Number of cases exceeding the 45-day timeline	1 ¹⁹	3 ²⁰	2 ²¹

¹⁹In one case, an extension of 10 days was granted by the Hearing Officer on the joint motion of the parties and the decision was issued within the extended time limit. Three cases remain pending at the end of the period. In each of these cases the due process notice was amended with the permission of the other party or the hearing officer. When the amended notice was filed, the time period "began again" as provided by IDEA. In one of the cases, two amendments were filed by the parent with the permission of the school division. In two cases, the final day for issuing decision was a Saturday, so the decisions were properly issued on the next business day of Monday.

²⁰In one case, the decision was issued one day after the 45-day timeline but was properly within the timeline since the final day was a Sunday and it was issued on the next business day. In one case, the hearing officer was ill on the final day of the 45-day timeline and he issued the case on the next day. Unfortunately, there was no extension to the 45-day timeline granted in this case. In two cases, an extension was properly granted citing the best interest of the children and the decision was issued within the extended timeline provided in the extension order.

²¹In one case, a hearing officer withdrew from the case. This case only exceeded the 45-day timeline by 20 days when a single extension was granted. In a second case, an extension was granted to allow for preparation of the transcript and hearing officer review of the record. This case only exceeded the 45-day timeline by 10 days. In a

☐ ***Trends***

- The first level of data evidences a trend of cases not requiring extensions to complete the hearing process:
 - 2007-2008: 2 out of 87 hearing requests involved extensions
 - 2008-2009: 2 out of 81 hearing requests involved extensions²²
 - 2009-2010: 1 out of 79 hearing requests involved extensions

☐ ***Number of days over the 45-day timeline***

	Reporting Periods			
	2009-2010	2008-2009	2007-2008	2006-2007
Total Cases	1	3	2	0
1 – 30 days	1	3	2	0
31 – 90 days	0	0	0	0
91 – 120 days	0	0	0	0
121+ days	0	0	0	0

- The data indicates a general consistency in the current reporting period and the previous two reporting periods, with only one case exceeding the 45-day timeline for the current reporting period. The record documented that the extension was properly granted in the child's best interests.
- The hearing officers are successfully documenting extensions during this reporting period. The coordinator of due process services employs an electronic tracking log to monitor all timelines and extensions to ensure that the extensions comport with regulatory requirements.

☐ ***Parties requesting extensions***

	Reporting Periods			
	2009-2010	2008-2009	2007-2008	2006-2007
Parent	0	2 ²³	2 ²⁴	1 ²⁵

third case, the 45th day fell on a Sunday, so the decision was properly issued on the next business day, and thus is not included in this calculation.

²²In one case, a hearing officer became ill on the final day of the 45-day timeline, but recovered sufficiently to issue the decision on the following day. Accordingly, no extension was granted in that case.

	Reporting Periods			
	2009-2010	2008-2009	2007-2008	2006-2007
LEA	0	0	0	0
Both	1	0	0	0
Hearing Officer	0	1 ²⁶	0	0
Child	0	0	0	0

- The single extension in the current reporting period was necessary to ensure fairness in the hearing process. Hearing officers continue to be reminded that Virginia's regulations governing special education contemplate the granting of extensions only in the most critical instances.
- In contrast to the previous two reporting periods, the sole extension for 2009-2010 was made by both parties, rather than the parents alone.

F. IMPLEMENTATION PLANS

Following the completion of each due process hearing, whether it goes to full hearing or is settled or dismissed, the school division is required to file with ODR/AS an Implementation Plan that reports how the school division will implement the hearing officer's decision.²⁷ The LEA has 45 calendar days to submit the implementation plan following the hearing officer's decision. The coordinator of due process services reviews and approves all implementation plans.

☐ ***Implementation Plans***

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of plans required	12 ²⁸	81	87

²³Two (2) extensions of the 45-day timeline were granted at the parties' request (*see* footnote 21). These extensions were carefully documented in the record. Each extension was granted for a limited period of time based on the reasons presented by the party requesting the extension. Each of the two extensions resulted in 25-day delays.

²⁴Two (2) extensions of the 45-day timeline were granted (*see* footnote 22). These extensions were carefully documented in the record. Each extension was granted for a limited period of time based on reasons presented by the party requesting the extension. One extension resulted in a 20-day delay and the other only 10 days.

²⁵One extension of the 45-day timeline was granted but the case was completed within the 45-day timeline. This extension was carefully documented by the hearing officer.

²⁶In this case, the hearing officer became ill when he was preparing the decision in the case. He recovered sufficiently on the following day and issued the decision with a one-day delay.

²⁷This provision is changed in the newly revised state special education regulations. Implementation Plans are required now for only fully adjudicated cases. 8 VAC 20-81-210 N.16.

²⁸Based on decisions as of June 30, 2010. The Virginia Regulations, at 8 VAC 20-81-210 N.16, provide that: "The local educational agency shall: Develop and submit to the Virginia Department of Education an implementation

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Received	9	68	73
Approved	9	68	73
Pending review	0	0	0
Pending receipt/review	3	13 [0*]	14 [0*]
Total pending closure	3	13 [0*]	14 [0*]

*As of 6/30/10

☐ ***Trends***

- Continuing the trend of prior reporting periods, all implementation plans submitted to ODR/AS were approved.

G. FOLLOW-UP SYSTEM FOR IMPLEMENTATION PLANS

VDOE identified as a target area in its Continuous Improvement Monitoring Process (CIMP) follow-up with school divisions to ensure implementation of the plans submitted by LEAs to comport with the hearing officers' decisions and approved by VDOE. This meant developing a system to review all implementation plans, to require documentation, and/or to initiate an on-site review. In VDOE's CIMP reports to OSEP in June and November 2003, and 2004 Annual Performance Report, ODR/AS documented its system for meeting this responsibility, which was implemented on July 1, 2003. ODR/AS began with the 2002-03 Implementation Plans. ODR/AS continues to report its efforts in its State Performance Plan at Indicator 15.

☐ ***Follow-Up System***

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of due process cases	79	81	87
Number of plans requested and received	9	68	73
Number of plans pending receipt	3	13	14

plan, with copy to the parent(s), within 45 calendar days of the hearing officer's decision in hearings that have been fully adjudicated." Previously, the predecessor of this regulation provided that implementation plans would also be submitted upon "the withdrawal of a hearing request" as well as upon full adjudication. This change in Virginia's 2009 Special Education Regulations has significantly reduced the number of implementation plans submitted to the Virginia Department of Education.

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Follow-up Implementation Plans reviewed	9	68	73
✓ not requiring additional action	4	28	36
✓ requiring follow-up activity	5	40	37
IPs pending review	3	0	0

☐ ***Trends***

- Changes in the 2009 Virginia Regulations (8 VAC 20-81-210.N.16) have significantly reduced the number of implementation plans submitted to the Virginia Department of Education. The 2009 Virginia Regulations now direct school divisions to develop and submit an implementation plan to VDOE the Virginia Department of Education, with copy to the parent(s), within 45 calendar days of the hearing officer's decision in hearings that have been fully adjudicated.

H. INITIATIVES

- ☐ As reported in 2008-2009, ODR/AS completed its guidance document for hearing officers on the subject of the 45-day timeline (*see D - Hearing Officer: Training, above*). This project was identified in VDOE's 2003 CIMP Report to OSEP; in VDOE's 2002 report to Virginia's Code Commission; in VDOE's 2004 Annual Performance Report, and the current State Performance Plan (Indicator 17). This document continues to guide Virginia's Hearing Officers in effectively avoiding lengthy delays of the 45-day timeline.
- ☐ In VDOE's 2004 Annual Performance Report to OSEP, VDOE reported a project target and activity that focused on the development of a guidance document, which was completed and issued to the field as the *Parents' Guide to Special Education Dispute Resolution* in August 2008. This project was finalized during the previous reporting period. VDOE also developed this project in response to the concerns raised during the public hearing held by the Virginia Code Commission's Administrative Law Advisory Committee. The concerns related to the parents' need for understanding the legal intricacies of the process when representing themselves in due process hearings. Without this understanding, parents reported that they remained at a disadvantage when the school board attorney represents the LEA's interests, thus eliminating a level playing field. Over the most recent reporting period, this document has been recognized as a source of information and guidance on conflict resolution, including due process, mediation and the complaints system.
- ☐ In response to the above-referenced public hearing, ODR/AS developed and posted on its web site, a list of legal and advocacy services for parents and students with disabilities, with a brief summary description of each of the services at http://www.doe.virginia.gov/special_ed/resolving_disputes/due_process/legal_advocacy

[groups.pdf](#). This document was updated during 2007-2008 and ongoing revisions are made consistent with reported changed information.

- ☐ ODR/AS received a work group report during 2007-2008 addressing alternative methods of conducting resolution sessions. Based on this report, ODR/AS developed a guidance document on this topic for school division personnel. While it has been delayed due to unanticipated challenges, it is anticipated that this document will be released in 2011.
- ☐ Based on the IDEA 2004 mandate for Resolution Sessions, ODR/AS has included a tracking system for resolution sessions held and disputes resolved through resolution agreements.
- ☐ ODR/AS will continue to provide the hearing officers with guidance documents and training materials on the 2009 state regulations.

PART II MEDIATION SERVICES

- Baseline Data
- Evaluations
 - ✓ System
 - ✓ Consumer
 - ✓ Mediators
- Training

Mediation services are available to parents and school administrators to help them negotiate issues on which they disagree regarding the identification, testing or provision of special education services to school-age students. The sooner mediation is sought, the more likely it is to be successful. In 2009-2010, it helped people to a successful outcome in 74% of the times when it was sought. Changing the format and the dynamics of a meeting is likely to change its outcome. Mediation is also a good option to bear in mind when the settlement period is invoked by a request for hearing. There is material descriptive of the mediation process on our web site at http://www.doe.virginia.gov/special_ed/resolving_disputes/index.shtml.

A. ***BASELINE DATA***

VDOE's Special Education Mediation Services includes: 8 mediators, ODR/AS director, Coordinator of Mediation Services, and an administrative assistant. The current system for maintaining the baseline data was developed and implemented during the 2003-2004 reporting period.

☐ ***Disposition of Requests***

	Reporting Periods				
	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Number of requests	119	105	138	129	125
• resolved	56	74	87	81	74
• partially resolved	0	0	2	2	1
• unresolved	20	14	22	18	25
• withdrawn	22	16	18	17	14
• pending*	21	1	9	11	11

*as of June 30 of relevant reporting year

☐ ***Requests Involving Due Process***

	Reporting Periods				
	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Number of requests	119	105	138	129	125
Number involved in DP	20	24	32	21	24
✓ resolved	9	15	18	6	13
✓ partially resolved	0	0	0	1	1
✓ unresolved	7	5	6	6	7
✓ withdrawn	2	4	8	7	3
✓ pending	2	0	0	1	0

☐ ***Five-Year Review of Mediation Requests***

	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Mediations requested	119	105	138	129	125

☐ ***Issues***

	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Total number of issues	225	208	235	202	206
IEP	152	144	163	135	140
✓ sufficiency of services	55	58	65	48	50
✓ type of services	33	35	39	37	44
✓ placement	54	44	52	43	37
✓ goals	10	7	7	7	9
Staffing	18	17	8	17	23
Evaluation & Disability	18	15	19	24	24
Financial responsibility*	16	18	22	17	8
Discipline	11	8	8	7	9
Transportation	10	5	6	2	2

* Involves disputes over financial responsibility for costs associated with a program that the parent has selected.

☐ ***Requests by Region:***

Regions	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Region I	12	14	14	9	26
Region II	32	20	40	12	23
Region III	9	5	9	15	13
Region IV	52	42	51	62	44
Region V	7	12	17	17	10
Region VI	5	8	4	8	3
Region VII	1	3	2	1	3
Region VIII	1	1	1	5	3

☐ ***Trends***

- The total number of requests for mediation (119) is up thirteen percent (13%) of the total for the previous reporting period (105). Seventy-four percent (74%) of requests in which parties actually met for mediation were partially or completely resolved, identical to the previous reporting period.
- Several superintendents' regions witnessed significant changes in the number of requests for mediation during this reporting period.
 - The 32 mediation requests in Region II (Tidewater and Eastern Shore) represented a dramatic 60% increase over its 20 requests in 2008-2009; however, this total remains significantly lower than the 40 requests reported in 2007-2008. The five-year comparison table suggests significant fluctuations in mediation requests annually in this region.
 - The nine (9) requests in Region III (Northern Neck) matched the number reported in 2007-2008, but represented a marked increase (80%) over the five (5) mediation requests for the 2008-2009 reporting period.
 - Region VI (Cities of Danville, Martinsville, Roanoke, and Salem, and surrounding counties), witnessed a decline in mediation requests, from 8 in 2008-2009 to 5 in 2009-2010.
 - The number of mediation requests—seven (7)—in Region V—decreased by five (5) for the second consecutive year (12 in 2008-2009; 17 in 2007-2008). The region had reported 17 mediation requests for two years (2006-2007 and 2007-2008).

- Region IV (Northern Virginia) again claimed the highest number of total mediation requests. Its total reflected a 24% increase (52 in this reporting period; 42 in 2008-2009), surpassing by one the 51 requests in 2007-2008. This increase reversed two consecutive declines of 18% each (42 in 2008-2009, 51 in 2007-2008, 62 in 2006-2007).
- Mediation requests remained somewhat consistent in two superintendent's regions.
 - Region I, (Central Virginia), reported only a slight decrease—12 requests in 2009-2010—over its 14 mediation requests in 2007-2008 and 2008-2009, respectively.
 - With only one (1) mediation request each, Regions VII (Southwest Virginia) and VIII (South-Central Virginia) shared the lowest number of mediation requests among all superintendents' regions. Region VIII has recorded only one (1) mediation request for three consecutive years.
- While increased awareness of the mediation option may augment the numbers of requests in some regions, no specific factors can be cited as contributing to the variations in the total numbers of mediation requests in the respective superintendents' regions.
- The total number of mediation requests made during due process (20) fell by four this reporting period.
- The total number of issues for this reporting period, 225, is about 8% higher than the 208 reported in 2008-2009, and about 4% lower than the 235 reported in 2007-2008.
 - For the sixth consecutive year, the IEP issue category claimed the highest portion of mediation issues, accounting for about 68% (152/225) of the total number of issues. Interestingly, this percentage nearly matches the 69% reported in 2008-2009 (144/208) and 2007-2008 (163/235), and remains fairly consistent with those reporting in previous years: 66% in 2006-2007; approximately 68% (140 of 206) in 2005-2006; and about 67% (131 of 195) in 2004-05.
 - Two categories (staffing; evaluation and disability) followed as distant second, each accounting for 18 issues—or about 4% (18/225)—of total issues in this reporting period. These two categories reflected only a slight increase over the previous reporting period (staffing—17 in 2008-2009; evaluation and disability—15 in 2008-2009).
 - The financial responsibility category, which includes disputes over tuition reimbursement for private placements and costs associated with other programs, accounted for about 7% (16/225) of total issues in this reporting period. This percentage is fairly consistent with the 8% (18/208) and 9% (22/235) of total issues reported in 2008-2009 and 2007-2008, respectively.

- Discipline issues (11) increased slightly in this reporting period, comprising nearly 5% of total issues reported in 2009-2010 (11/225).
- Transportation issues (10) doubled the number reflected in the previous reporting period (5 in 2008-2009), but accounted for only 4% of total issues reported in 2009-2010 (10/225).

B. EVALUATIONS

☐ ***Consumer Evaluations***

People who participate in mediation are supplied with a form to complete to provide the Coordinator with a written evaluation with any comments they wish to make to capture their experience in the mediation session. This reporting period, 238 consumer evaluations were distributed. The Coordinator reviews them for issues requiring clarification and calls for more information if necessary. People are encouraged at any time to call or write the Coordinator with their experiences or to approach him at a meeting.

Some sample comments from participants:

Administrator: “The mediator was focused, motivated and worked very hard to help us to come to resolution.”

Parent: “Mediation was a positive experience. Negotiations progressed seamlessly. The mediator was very helpful in moving the process along to resolution.”

Administrator: “The mediator was very professional and able to maintain the focus of the meeting.”

Parent: “The mediator was fabulous. Our impasse was resolved and changed my child’s education. Appreciate the system. It works!”

Administrator: “As our mediator, she does an excellent job of facilitating the dispute resolution process between the parent and school personnel.”

☐ ***Evaluation of Mediators***

Evaluations extend beyond these informal reports to observations of mediators at work and formal assessments in writing, which are discussed in supervision. The objective in a progressive assessment process is to assist the mediators in developing their understanding and skills in the service of assisting people in negotiating important issues.

C. TRAINING FOR MEDIATORS

Mediators received 12 hours of training sponsored by ODR/AS this year. Mediators supplemented this through other sources including state and national conferences and specialized

reading. ODR/AS provides the mediators with summaries and texts of Virginia and Fourth Circuit Court and U.S. Supreme Court decisions relative to special education cases for 2009-2010.

D. TRAINING PROVIDED TO CONSTITUENTS

The Coordinator conducted workshops on mediating special education issues for the Virginia Mediation Network, Leadership Academy interns and VCU School of Education graduate students. He presented a workshop on negotiations for new special education teachers and supervisors at the Virginia Transition Forum, for teachers and administrators in Norfolk Public Schools, for Region V administrators and for the Governor's ADR Council. He also presented to parents and administrators on the state special education regulations. He served as a reviewer for Nicholas Martin's book: Supporting the IEP Process.

PART III COMPLAINTS SYSTEM

- Baseline Data
- Implementation System for CAPS
- ODR/AS Initiatives

A. BASELINE DATA

☐ *Number of Complaints*

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of Complaints	132	121	138
• resolved through mediation or otherwise settlement agreement	11	28	15
• withdrawn	18	9	18
• dismissed	2	0	2 ²⁹
• findings/decisions issued	78	64	103
• pending as of 6/30/10	23	0	0
Number exceeding the 60- day timeline without the mandated extension	0	0	0

☐ *Five-Year Review of Complaints Received*

Fiscal Year	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Total Number of Complaints	132	121	138	115	132

²⁹One case was dismissed during the 2008-2009 school year.

☐ ***Findings/Decisions***

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of decisions issued	78*	64**	84***
Number of issues	251	192	265
Number of issues in compliance	171	116	168
Number of issues in noncompliance	80	76	97

*As of 6/30/10

**As of 6/30/09

***As of 6/30/08

☐ ***Decisions Appealed***

	Reporting Periods		
	2009-2010	2008-2009	2007-2008
Number of decisions issued	78	64	84
# of Decisions Appealed	31*	13**	18***
• Findings Affirmed	22	9	14
• Findings Reversed	1	0	1
• Findings Remanded	1 ³⁰	2	3
• Findings Split	3	2	0
• affirmed issues	13	2	0
• reversed issues	4	1	0
• remanded issues	2	1	0
• dismissed issues	0	0	0
• Appeals Withdrawn	0	0	0
• Appeals Denied (due to untimely filing)	3	0	0
• Appeal Decisions Pending as of 6/30/10	1	0	0

*7 appeals were based on findings issued in 2008-2009

**5 appeals were based on findings issued in 2007/2008

***7 appeals were based on findings issued in 2006/2007

³⁰Two other appeal decisions also contained a remand order, along with split findings that are addressed below.

☐ **Issues/Sub-issues**

Issues/Sub-issues	Reporting Period		
	2009-2010		
	#Issues	C*	NC*
IEP	125	89	36
Implementation	79	56	23
Development, Review & Revision	35	29	6
Provision of Progress Reports	11	4	7
IEP Meetings	14	11	3
Team Composition	2	2	0
Parental Participation	7	5	2
Parental Consent	3	2	1
Excusal Provisions	1	1	0
Notice	1	1	0
FAPE	15	9	6
Disability Harassment	2	1	1
Placement	2	1	1
ESY	5	3	2
Participation in Extra Curricular Activities	3	2	1
Transportation	1	0	1
Safety	1	1	0
Other – Dual Enrollment	1	1	0
Procedural Safeguards	24	15	9
IEE	9	7	2
Written Prior Notice	14	7	7
Video Recording Procedures	1	1	0
LRE	2	1	1
Least Restrictive Environment	2	1	1
Discipline	8	5	3
MDR	1	1	0
FBA/BIP	5	3	2
Services During Removal	2	1	1
Eligibility/Evaluation/Reevaluation	31	23	8
Eligibility Procedures	15	11	4
Evaluation/Reevaluation Procedures	14	11	3
Team Composition	1	0	1
Termination of Services	1	1	0
Child Find	2	2	0

Issues/Sub-issues	Reporting Period		
	2009-2010		
	#Issues	C*	NC*
Child Study Procedures	2	2	0
Placement	3	0	3
Change in Placement	3	0	3
Records	11	5	6
Access	5	3	2
Amendment	1	0	1
Confidentiality	3	1	2
Destruction	1	0	1
Management	1	1	0
Program Standards	7	7	0
Qualified Staff	7	7	0
Other	9	4	5
Transfer Student Procedures	3	1	2
Due Process Procedures	3	1	2
Complaint Procedures	1	1	0
Local Policy and Procedures	1	0	1
Age of Majority Procedures	1	1	0
TOTALS	251	171	80

*denotes that the LEA was found to be in compliance "C" or non-compliance "NC."

☐ **Issues Summary: Three-Year Period**

Issue Category	Reporting Period 2009-2010			Reporting Period 2008-2009			Reporting Period 2007-2008		
	Total Issues	C	NC	Total Issues	C	NC	Total Issues	C	NC
IEP	125	89	36	87	49	38	126	80	46
IEP Meetings	14	11	3	22	14	8	35	19	16
FAPE	15	9	6	7	6	1	6	5	1
Procedural Safeguards	24	15	9	12	8	4	21	13	8
LRE	2	1	1	2	2	0	3	3	0
Discipline	8	5	3	21	12	9	18	7	11

Issue Category	Reporting Period 2009-2010			Reporting Period 2008-2009			Reporting Period 2007-2008		
	Total Issues	C	NC	Total Issues	C	NC	Total Issues	C	NC
Eligibility/Evaluation/ Reevaluation	31	23	8	27	16	11	21	16	5
Child Find	2	2	0	4	3	1	3	3	0
Program Standards	7	7	0	0	0	0	4	4	0
Placement	3	0	3	6	4	2	3	3	0
Records	11	5	6	1	0	1	13	8	5
Other	9	4	5	3	2	1	12	7	5
TOTALS	251	171	80	192	116	76	265	168	97

☐ *Trends*

- The number of complaints for this reporting period (132) surpassed last year's number (121) by 11, and is higher (9) than the average of the total number of cases over the last 5 years (616 total cases, averaging approximately 123 cases per year).
 - Although the number of mediation requests was slightly higher this year (119 in 2009-2010, compared to 105 in 2008-2009), we cannot conclude how mediation may have affected the number of complaints. There are no clearly identifiable factors accounting for this increase in complaints.
- The number of complaint issues (251) is significantly higher—59 greater-- than that reported for 2008-2009 (192) and about 14 less than that for 2007-2008 (265). Although the number of total complaints increased in 2009-2010, the increase in the number of complaint issues is nonetheless significant, as the regulations require the SEA to address each issue with findings.
- The number of decisions issued—78—surpassed the number of decisions issued for the previous reporting period (84) by 6.
- The total number of decisions that were appealed (31) represented a significant increase over the two previous reporting periods (13 in 2008-2009; 8 in 2007-2008).
- The percentage of appeals dramatically increased to 40% (31/78) in the current reporting period, compared to 20% (13/64) on 2008-2009, and 21% (18/84).

- Approximately 23% (7/31) of the decisions appealed in 2009-2010 were based on findings issued in the previous reporting period, compared to 38% (5/13) in 2008-2009, and 40% (7/18) in 2007-2008.
- For the sixth consecutive year, the IEP issue category claimed the highest portion of complaint issues, comprising approximately 50% (125/251) of the total number of issues. This percentage reflects a slight increase over the percentages reported for the two previous years (45%, or 87/192 in 2008-2009, and 48% (126/265) in 2007-2008.
- The Eligibility/Evaluation/Reevaluation category followed at a distant second, accounting for about 12% (31/251) of total complaint issues, with Procedural Safeguards at about 10% (24/251), and the FAPE (15/251) and IEP Meetings (14/251) issue categories each supplying about 6% of complaint issues.
- Sub-issue areas with highest numbers of noncompliance findings follows:
 - ✓ IEP implementation (36 of 80 total noncompliance findings).
 - ✓ Procedural Safeguards (9 of 80)
 - ✓ Evaluations/Reevaluation Procedures (8 of 80)
 - ✓ FAPE and Records (each at 6 of 80)
- Issue categories that demonstrated improvement in compliance (as a percentage of complaints submitted in the particular category) since the last reporting period follow:
 - ✓ IEP (71%; 56% in 2008-2009)
 - ✓ IEP Meetings (79%; 64% in 2008-2009)
 - ✓ Eligibility/Evaluation/Reevaluation (74%; 59% in 2008-2009)
 - ✓ Discipline (63%; 57% in 2008-2009)
 - ✓ Child Find (100%; 75% in 2008-2009)
 - ✓ Records (45%; 0% in 2008-2009)
- In contrast, issue categories that declined in compliance since the last reporting period follow:
 - ✓ FAPE (69%; 86% in 2008-2009)
 - ✓ Procedural Safeguards (63%; 67% in 2008-2009)
 - ✓ LRE (50%; 100% in 2008-2009)
 - ✓ Placement (0%; 67% in 2008-2009)
 - ✓ Other (44%; 58% in 2008-2009)
- Only two categories—Child Find and Program Standards—demonstrated a 100% compliance rate in this reported period. Program Standards, which accounted for none of the complaint issues in the 2008-2009 reporting period, also reflected a 100% compliance rate in 2007-2008.
- Data reflects no clear nexus between revised regulatory requirements and any significant increase or decrease in various complaint totals or findings.

B. IMPLEMENTATION SYSTEM FOR CORRECTIVE ACTION PLANS

VDOE identified as one of its target areas in its Continuous Improvement Monitoring Process and Annual Performance Report to follow up with school divisions to ensure timely correction of non-compliances as required by complaint decisions. This meant developing a system to review all Corrective Action Plans (CAPs) that had been approved by ODR/AS, and as necessary, require documentation and/or initiate an on-site review to ensure complete implementation. In VDOE's CIMP reports to OSEP in June and November 2003, and 2004 Annual Performance Report, ODR/AS evidenced its system for meeting this responsibility, which was developed and implemented on July 1, 2003. ODR/AS began with the 2001-02 school year CAPs. This element is now included in the State Performance Plan (Indicator 15).

☐ ***Corrective Action Plan Implementation***

Fiscal Year	Number of Decisions Issued	Pending Decision	CAPs Issued	Reviewed for Full Implementation and Closed³¹	Pending Review
2009-2010	78	23	47*	0	47
2008-2009	83	0	49	49	0
2007-2008	103	0	46	53	0
2006-2007	84	0	46	52	0
2005-2006	94	0	38	47	0

* As of 6/30/10

C. INITIATIVES

- ODR/AS' complaints specialists participated in a variety of trainings on special education law and regulatory matters. Each specialist is assigned to two regions and serves on VDOE's technical assistance team for those particular regions. The specialist also attends regional meetings of the special education directors in the assigned region.
- ODR/AS staff, particularly the complaints staff, work closely with the VDOE parent ombudsman (from the Office of Student Services) to provide information and guidance to the Parent Resource Centers and parents on dispute resolution matters. The ombudsman position began in 2003-04 in response to the Code Commission's 2001 recommendation to VDOE to create such a position to assist parents with special education matters and understanding of dispute resolution options.
- ODR/AS' complaints specialists also provided training sessions for school divisions, special educators, parents and other interested groups to address a variety of special

³¹This includes the review of ODRAS accepted self-corrective actions which were submitted by the LEA with their response to the complaint.

education issues, including transition services, discipline, transportation, and dispute resolution.

PART IV ADMINISTRATIVE SERVICES

- O Annual Plans
- O Special Education Regulations
- O Training Activities
- O Frequently Asked Questions
- O Local Advisory Committees
- O Inquiries
- O Freedom of Information Act Requests
- O Initiatives

The Office of Dispute Resolution and Administrative Services is responsible for:

- coordinating activities related to the implementation of Virginia's special education regulations.
- training initiatives relative to IDEA '04 and its federal and state implementing regulations.
- coordinating the Annual Plan process for local school divisions and state-operated programs. The coordinator of administrative services oversees the annual plan system, and provides technical assistance and trainings regarding its components. The administrative services specialist is responsible for approval of local advisory committee (LAC) submissions and working with localities when issues arise.
- coordinating the process for developing and posting responses to the Frequently Asked Questions (FAQs), reflecting questions generated by the field.
- responding to written and electronic inquiries involving the application of federal and state regulations governing special education. The ODR/AS staff is responsible for responding to inquiries.
- responding to Freedom of Information Act (FOIA) requests relative to the dispute resolution systems. The coordinator of due process services coordinates the responses to FOIA requests.
- working with the Partnership for People with Disabilities (Partnership) office at Virginia Commonwealth University to provide technical assistance to LACs to ensure compliance

with Virginia's special education regulations. The administrative services specialist serves as the liaison to the Partnership.

☐ ***Annual Plans***

Pursuant to the *Code of Virginia*, § 22.1-215, each of the 148 Virginia school divisions and state-operated programs must submit to VDOE for approval a plan to provide special education services to identified children with disabilities within its jurisdiction. This plan must not be submitted more than annually unless changes to the plan are required by federal or state law or regulation. This plan must be received by VDOE, in substantially approvable form, no later than July 1 of each year.

During the 2009-2010 school year, ODR/AS provided training and technical assistance, as necessary, to assist school divisions and state-operated programs in the development and submission of their annual plans, including the submission of their electronic applications for federal funding via the Online Management of Education Grant Awards (OMEGA) system. All annual plans were received, reviewed, and approved by June 16, 2010.

☐ ***Special Education Regulations***

Administrative services is responsible for coordinating activities related to the implementation of the "Regulations Governing Special Education for Children with Disabilities in Virginia," Virginia's special education regulations. These efforts included the dissemination of copies of the new state special education regulations to multiple constituency groups, including through posting the information to ODR/AS' web site, distribution at trainings, and direct mail of the information, upon request.

In addition, with guidance from the Board of Education, and the Office of the Attorney General, administrative services initiated an expedited regulatory process pursuant to Virginia's Administrative Process Act (Va. Code § 2.2-4006), to incorporate the revisions to IDEA's federal implementing regulations, dated December 2008, revisions made to the *Code of Virginia* during the 2009 General Assembly, and technical amendments. This process was completed with the revised regulations becoming effective January 25, 2010.

During the 2009-2010 school year, administrative services also collaborated with staff throughout VDOE to develop and/or revise numerous technical assistance documents to assist local school divisions and state-operated programs with maintaining compliance with Virginia's new special education regulations. These efforts included revising Virginia's procedural safeguards notice and "A Parent's Guide to Special Education," and developing a template for the development of local policies and procedures.

Administrative services has updated, as appropriate VDOE's website for special education regulations at http://www.doe.virginia.gov/special_ed/regulations/index.shtml.

☐ ***Training Activities***

During the 2009-2010 year, ODR/AS conducted approximately 58 trainings for 1,837 participants for multiple constituency groups, across the state, regarding regulatory requirements. Trainings have addressed a variety of topics, such as the implementation of Virginia's special education regulations, IEPs, discipline, and revisions to Section 504 of the Rehabilitation Act of 1973, as amended.

☐ ***Frequently Asked Questions***

A process for identifying and answering questions in an FAQ format has been implemented which has resulted in the posting of 13 FAQs on the web-site at http://www.doe.virginia.gov/special_ed/regulations/state/faq_implementing_regulations/index.shtml. Once an FAQ is posted, the director e-mails local directors informing them of the posting and the administrative services specialist e-mails the members of the State Special Education Advisory Committee (SSEAC). Questions are generated from inquiries received and are selected based on broad-based need. Additional FAQs will be included as they are identified and completed.

☐ ***Local Advisory Committees***

Administrative services has assumed responsibility for providing technical assistance to localities regarding required local advisory committees for special education. This has included the review of the LAC portion of the annual plan process as well as working with the Partnership for People with Disabilities at VCU to update documents and materials for use by localities. While the Partnership will continue to provide most on-site training, administrative services staff has also been available to provide training and technical assistance.

☐ ***Inquiries***

Fiscal Year	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Number of Requests	283	264	251	174	236

Inquiries are requests for interpretation or application of regulations that are not related to a specific complaint, mediation, or due process case. As the data indicates, there has been an increase in these requests. This is attributable, in part, to questions about the application of the new state special education regulations.

☐ ***Freedom of Information Act Requests***

Fiscal Year	2009-2010	2008-2009	2007-2008	2006-2007	2005-2006
Number of Requests	12	14	20	14	29

❑ ***Initiatives***

Administrative Services will be responsible for the following activities during the 2010-11 year:

- Developing and/or revising technical assistance documents, as necessary, to assist local school divisions and state-operated programs in ensuring compliance with state and federal special education requirements.
- Providing, upon request, training statewide to a variety of constituency groups to review and clarify Virginia's special education requirements.
- Disseminating the state special education regulations upon request. Administrative services will also ensure that the new regulations and the technical assistance documents are translated, as appropriate.
- Identifying and responding to FAQs, and ensuring their timely posting to VDOE's Web site, upon completion.
- Coordinating the Annual Plan process to ensure compliance with the IDEA and its federal and state implementing regulations using a new paperless process via OMEGA, training for which will begin in fall 2010.
- Working with the Partnership at VCU on publication of the LAC technical assistance document and providing training and technical assistance to localities.
- Continuing to monitor the progress of national legislation related to restraint and seclusion as well as action taken on the UN Treaty related to the rights of those with disabilities.

APPENDIX A - Dispute Resolution Activities by LEA 2009-2010

- c: VDOE's management team responsible for the State Performance Plan
VDOE staff in the Division of Special Education and Student Services
VDOE hearing officers and mediators
Virginia Supreme Court, Office of the Executive Secretary
State Special Education Advisory Committee
Directors of Special Education
PEATC

APPENDIX A
Dispute Resolution Activities by LEA
2009-2010

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Accomack	654	5,149	0	3	0
Albemarle	1,559	13,035	0	0	0
Alexandria City	1,747	11,661	0	1	2
Alleghany	506	2,848	0	0	0
Amelia	217	1,844	0	1	0
Amherst	565	4,636	1	0	0
Appomattox	292	2,334	0	0	1
Arlington	2,986	20,268	7	4	5
Augusta	1,211	10,810	1	1	0
Bath	90	701	0	0	0
Bedford	1,082	10,841	0	0	1
Bland	136	918	0	0	0
Botetourt	820	5,086	0	1	0
Bristol City	361	2,355	0	0	0
Brunswick	249	2,186	0	0	0
Buchanan	641	3,386	0	0	0
Buckingham	248	2,042	0	0	0
Buena Vista City	156	1,142	0	0	0
Campbell	966	8,634	1	0	1
Caroline	659	4,277	0	0	0
Carroll	570	4,113	0	0	0
Charles City County	123	873	0	0	0
Charlotte	318	2,198	0	1	0
Charlottesville City	605	4,019	0	0	0
Chesapeake City	6,948	39,883	2	7	10
Chesterfield	7,432	59,509	4	7	5
Clarke	173	2,181	0	0	0
Colonial Beach	77	617	0	0	0
Colonial Heights City	380	2,859	0	0	0
Covington City	161	910	0	0	0
Craig	107	727	0	0	0

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Culpeper	749	7,640	0	1	1
Cumberland	171	1,531	0	0	0
Danville City	1,014	6,489	0	1	0
Dickenson	435	2,573	1	3	0
Dinwiddie	637	4,717	0	1	1
Essex	214	1,643	0	0	0
Fairfax	24,100	171,959	16	18	11
Falls Church City	251	2,023	0	0	0
Fauquier	1,270	11,297	1	1	0
Floyd	324	2,078	0	0	0
Fluvanna	479	3,786	0	0	0
Franklin City	194	1,303	0	1	0
Franklin County	1,280	7,545	0	0	0
Frederick	1,494	13,144	2	2	1
Fredericksburg City	309	2,995	0	0	0
Galax City	154	1,371	0	0	0
Giles	370	2,560	0	0	0
Gloucester	727	6,073	0	0	1
Goochland	373	2,452	1	3	0
Grayson	277	1,984	0	0	0
Greene	428	2,834	1	0	1
Greensville	357	2,671	0	0	0
Halifax	1,132	5,999	0	0	0
Hampton City	2,942	21,573	0	3	0
Hanover	2,548	18,854	3	5	1
Harrisonburg City	540	4,594	0	0	0
Henrico	6,548	49,407	1	4	3
Henry	1,159	7,515	0	0	0
Highland	45	259	0	0	0
Hopewell City	687	4,171	1	0	0
Isle of Wight	692	5,533	1	2	1
King & Queen	122	772	0	0	0
King George	465	4,127	1	1	1
King William	296	2,233	0	0	3

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Lancaster	177	1,387	0	0	0
Lee	744	3,651	0	0	0
Lexington City	65	499	0	0	0
Loudoun	6,263	60,034	1	4	26
Louisa	741	4,711	1	1	0
Lunenburg	246	1,648	0	0	0
Lynchburg City	1,242	8,614	0	0	1
Madison	190	1,870	0	0	0
Manassas City	987	6,866	1	2	2
Manassas Park City	303	2,707	0	0	0
Martinsville City	272	2,482	0	0	0
Mathews	181	1,239	0	0	0
Mecklenburg	636	4,821	0	0	0
Middlesex	187	1,246	0	0	0
Montgomery	1,144	9,795	0	0	0
Nelson	262	1,976	0	0	0
New Kent	358	2,854	0	0	0
Newport News City	4,057	30,869	0	3	2
Norfolk City	4,687	34,068	5	7	1
Northampton	277	1,799	0	0	0
Northumberland	173	1,448	0	1	0
Norton City	109	856	0	0	0
Nottoway	317	2,366	0	0	0
Orange	501	5,283	0	1	0
Page	441	3,638	0	0	0
Patrick	442	2,578	0	0	0
Petersburg City	482	4,630	0	1	1
Pittsylvania	1,425	9,294	1	0	1
Poquoson City	263	2,412	0	0	0
Portsmouth City	2,008	15,289	0	0	0
Powhatan	593	4,483	0	0	0
Prince Edward	431	2,614	0	0	0
Prince George	814	6,305	0	0	0
Prince William	8,900	76,862	4	2	3

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Pulaski	781	4,722	0	0	0
Radford City	237	1,540	0	0	0
Rappahannock	122	930	0	0	0
Richmond City	4,667	22,994	3	1	1
Richmond County	171	1,220	0	1	2
Roanoke City	1,753	12,948	2	1	1
Roanoke County	2,190	14,793	2	1	2
Rockbridge	350	2,808	1	4	0
Rockingham	1,187	11,946	0	3	2
Russell	796	4,317	0	0	0
Salem City	496	3,941	0	0	1
Scott	636	3,993	0	0	0
Shenandoah	763	6,229	0	0	0
Smyth	814	4,996	0	0	0
Southampton	433	2,929	0	0	0
Spotsylvania	2,782	24,081	1	4	1
Stafford	2,328	27,060	1	1	2
Staunton City	426	2,731	0	0	1
Suffolk City	1,765	14,408	1	1	2
Surry	136	1,017	0	0	0
Sussex	210	1,237	0	0	0
Tazewell	998	6,790	0	0	0
Virginia Beach City	9,297	71,198	4	12	11
Warren	628	5,442	0	1	1
Washington	1,116	7,486	0	0	0
Waynesboro City	317	3,176	0	0	0
West Point	62	794	0	1	0
Westmoreland	178	1,783	1	0	0
Williamsburg-James City	1,551	10,797	1	2	0
Winchester City	603	3,810	0	0	0
Wise	868	6,784	1	0	1
Wythe	452	4,336	0	0	0
York	1,186	12,729	1	5	5

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Department of Ed.	0	0	2	0	0
TOTALS	165,029	1,244,906	79	132	119